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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/894,642

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Kenneth H. Abbott

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09/17/2008

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EXAMINER

CLOUD, JOIYA M

ART UNIT

PAPER NUMBER

2144

NOTIFICATION DATE

DELIVERY MODE

09/17/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/894,642	Applicant(s) ABBOTT ET AL.	
	Examiner Joiya M. Cloud	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-82 and 173-183 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 66-82 and 173-183 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/27/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to the communication filed on 06/26/2008. Claims 66-104,107-109, AND 111-172 are PENDING in this application.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-16 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 66 of exemplary co-pending **Application No. 09/894615**. The following co-pending Applications are also provisionally rejected for the same rational (**09/894641, 09/724949, 11/567695, 11/559854, 11/622954, 09/878948, 12/049898, and 09/879339**). Although the conflicting claims are not identical, they are not patentably distinct

from each other because the differences between the two pending applications are minor wording, which do not change the scope of the invention. Please refer to the exemplary observations for obvious variations of limitation in claims.

Instant Application 09/894,642	Co-Pending Application 09/894615
<p>1. A method for a user characterization system executing remotely from a thin client wearable computer to provide information about a current state of a user of the thin client wearable computer, the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes, state client modules (SCMs) to process values for the state attributes, and an intermediary module to facilitate exchange of state attribute values, the method comprising:</p> <p>under control of each SSM, gathering information about the current state of the user, generating values for at least one of the state attributes based on the gathered information, and sending the generated values to the intermediary module;</p> <p>under control of each SCM, receiving values for at least one state attribute from the intermediary module and performing processing based on the received values;</p> <p>under control of the intermediary module, facilitating exchange of values by, receiving the sent values for the state attributes from the SSMs; automatically modeling values of other state attributes based at least in part on the sent values of the state attributes by abstracting a user condition</p>	<p>66. A method in a wearable computer for an executing user characterization system to provide information about a current state of a user of the wearable computer, the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes, state client modules (SCMs) to process values for the state attributes, and an intermediary module to facilitate exchange of state attribute values, each of the multiple state attributes having a distinct local name used by the SSMs, the SCMs and the intermediary module, the method comprising:</p> <p>under control of each SSM, generating values for at least one of the multiple state attributes; and</p> <p>sending generated values for a state attribute to the intermediary module along with an indication of that state attribute using the local name of that state attribute; under control of each SCM,</p> <p>requesting from the intermediary module values for at least some of the state attributes that are indicated using the local names of those state attributes; and receiving at least some of the requested values from the intermediary module; and under control of the intermediary module, facilitating exchange of values by, receiving the sent values for the indicated state attributes from the SSMs and storing the received values in a manner associated with those indicated state attributes;</p>

<p>derived from the sent values of the state attributes;</p> <p>sending at least some of the received state attribute values and at least some of the modeled other state attribute values to the SCMs; and</p> <p>interacting with the thin client wearable computer in order to provide information about the user or to receive information about the user, the interacting being based at least in part on the modeled other state attribute values, so that the</p>	<p>receiving from a first other characterization system an indication of a first attribute and at least one value for the indicated first attribute, the first other characterization system executing on another computer to model a current state related to that computer; storing the received first attribute value by determining whether the indication of the first attribute corresponds to one of the multiple state attributes having a local name that differs from that indication, and when the first attribute is determined to correspond to the one state attribute having the differing local name, storing the received first attribute value in a manner associated with the one state attribute having the differing local name; and receiving from the SCMs the requests for values of state attributes indicated using the local names of the state attributes, and sending to the SCMs stored values that are associated with those indicated state attributes, so that the user characterization system can interact with modules and other characterization systems in order to exchange values of state attributes.</p>
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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 66-82 and are rejected under 35 U.S.C 103(a) as being unpatentable over Carroll et al. (US Patent No. 6,285,757) in view of Toyouchi et al (US Patent No. 6,006,251).

As per claims 66 Carroll discloses the invention substantially as claims. Carroll discloses a method for a user characterization system executing remotely from a thin client wearable computer (Carroll , fig.1, remotely device 160, col.2, 1.30-45, col.6, 1.35-37) to provide information about a current state of a user of a thin client wearable computer, the user characterization system modeling the current state with multiple state attributes and including state server modules (SSMs) to supply values for the state attributes (Carroll,col.5, 1.39-43, in which the sensors 170 provides information corresponds to state attribute), state client modules (SCMs) to process values for the state attributes (Carroll, col.7, 1.36-39, in which sensor 170 also process information on surrounding environment), and an intermediary module to facilitate exchange of state attribute values (Carroll, col.7, 1.26-28, the interactive device corresponds to the intermediary module which can exchange the sensor information between inward and outward), the method comprising:

- a. under control of each SSM, gathering information about the current state of the user, generating values for at least one of the state attributes based on the gathered information, and sending the generated values to the intermediary module (Carroll, col. 5, 1.42-45, the sensor corresponds SSM sends the distance information and lens provides the enhance view).
- b. under control of each SCM, receiving values for at least one state attribute from the intermediary module and performing processing based on the

received values (Carroll, col.7, 1.43-45, the interactive device can receive signal from GPS).

c. under control of the intermediary module (interactive device), facilitating exchange of values by, receiving the sent values for the state attributes from the SSMS (Carroll, col.5, 1.43-44, interactive device receives the information from sensor); and sending at least some of the received state values and at least some of the modeled other state attribute values to the SCMs (Carroll, col. 5, 1.40-42, and conjunction with the lens (one of SCMs) to provide the enhance viewing); and interacting with the thin client wearable computer in order to provide information about the user or to receive information about the user, the interacting being based at least in part on the modeled other state attribute values, so that the remotely executing user characterization system can obtain and provide information about the current state of the user of the thin client wearable computer (Carroll, fig.3, interactive device can remotely communicates with component 150, 160, 170).

Carroll fails to explicitly teach automatically modeling values of other state attributes based at least in part on the sent values of the state attributes by abstracting a user condition derived from the sent values of the state attributes.

However, Toyouchi teaches automatically modeling values of other state attributes based at least in part on the sent values of the state attributes by abstracting a user condition derived from the sent values of the state attributes (Figure 4 and col. 11, lines 55-col. 12, lines 1-10, where a condition table represents the acquired information of state attributes in which

condition information (i.e. terminal location and weather) is derived with values updated by the condition management unit).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Carroll's wearable device with the method of Toyouchi for the purpose of determining "the information to be provided to the information acquiring computer" based on representative values of the conditions (col. 7, lines 32-38) and furthermore to change the service to be provided in accordance with the conditions indicated by the values (col. 12, lines 10-13).

As per claim 67, Carroll-Toyouchi further discloses the method of claim 66 wherein the thin client wearable computer includes an output device, and wherein the interacting with the thin client wearable computer includes sending information for presentation to the user on the output device (Carroll, col.3, l.23-25, the display interface corresponds to the output device).

As per claim 68, Carroll-Toyouchi further discloses the method of claim 67 wherein the Information to be sent for presentation to the user is generated by the processing of one of the SCMs, and wherein the sending of the information for presentation to the user on the output device is performed on behalf of that SCM (Carroll, col.5, l.40-42, and conjunction with the lens (one of SCMs) to provide the enhance viewing).

As per claim 69, Carroll-Toyouchi further discloses wherein the thin client wearable computer includes an input device, and wherein the interacting with the thin client wearable computer includes receiving information provided by the user via the input device (Carroll, col. 6, l.60-62, microphone corresponds to input device).

As per claim 70, Carroll-Toyouchi further discloses wherein the gathering of the information about the current state of the user by one of the SSMs includes obtaining the received information provided by the user via the input device (Carroll, col.5, l.32-34, the voice recognition need input from microphone).

As per claim 71, Carroll-Toyouchi further discloses the method of claim 66 wherein the user characterization system executes on a computer remote from the thin client wearable computer, wherein the thin client wearable computer lacks resources accessible to the remote computer, and wherein the interacting with the thin client wearable computer includes receiving a request to access at least one of the resources on behalf of the thin client wearable computer and accessing those resources in response (Carroll, col.8, l.31-34, the interactive communication corresponds to the accessing resource in response).

As per claim 72, Carroll-Toyouchi further discloses the method of claim 71 wherein the at least one resources include processing capabilities of the remote computer, wherein the accessing of those resources includes using the processing capabilities on behalf of the thin client wearable computer, and including sending an indication of results to the thin client wearable computer (Carroll, col.8, l.31-34 the interactive communication includes the sending an indication of result to the interactive device).

As per claim 73, Carroll-Toyouchi further discloses the method of claim 71 wherein the at least one resources are storage capabilities of the remote computer, and wherein the accessing of those resources includes sending information stored on the storage capabilities to the thin client wearable computer (Carroll, fig.3, component 200).

As per claim 74, Carroll-Toyouchi further discloses the method of claim 71 wherein the at least one resources are storage capabilities of the remote computer, and wherein the accessing of those resources includes storing information received from the thin client wearable computer on the storage capabilities (Carroll, fig. 3, component 200).

As per claim 75, Carroll-Toyouchi further discloses the method of claim 71 wherein the remote computer has a sensor receiving information about the user of the thin client wearable computer, and wherein the gathering of the information about the current state of the user by at least one of the SSMS includes obtaining information from the sensor (Carroll, col.7, 1.39-41).

As per claim 76, Carroll-Toyouchi further discloses the method of claim 71 wherein the remote computer has an output device that is perceivable by the user of the thin client wearable computer, and wherein the performing of the processing based on the received values by at least one of the SCMs includes presenting information to the user on the output device. (Carroll, col.5, 1.40-43)

As per claim 77, Carroll-Toyouchi further discloses the method of claim 66 wherein the gathering of the information about the current state of the user by at least one of the SSMS includes obtaining information from at least one sensor that is part of the thin client wearable computer (Carroll, col. 7, 1.35-38).

As per claim 78, Carroll-Toyouchi further discloses the method of claim 66 wherein the performing of the processing based on the received values by at least one of the SCMs includes supplying information to at least one output device that is part of the thin client wearable computer (Carroll, col. 7, 1.30-35).

As per claim 79, Carroll-Toyouchi further discloses the method of claim 66 wherein the user characterization system further includes an additional module executing on the thin client wearable computer, and wherein the interacting with the thin client wearable computer includes interacting the additional executing module (Carroll, fig.3, component 180).

As per claim 80, Carroll-Toyouchi further discloses the method of claim 66 wherein at least one of the SSMs executes on the thin client wearable computer and communicates with the intermediary module via wireless communication (Carroll, col.3, 1.24-25).

As per claim 81, Carroll-Toyouchi further discloses the method of claim 66 wherein at least one of the SCMs executes on the thin client wearable computer and communicates with the intermediary module via wireless communication (Carroll, col.3, 1.39-45)

As per claim 82, Carroll-Toyouchi further discloses the method of claim 66 wherein at least some of the SSMs are available to supply values for additional state attributes of a current state other than for the user, and wherein the intermediary module additionally sends values for the additional state attributes to SCMs (Carroll, col.5, 1.10-14, col. 8, 1.24-44, in which the interactive device can sends value either from sensor or computer and alerting alarms)

As per claim 83, Carroll-Toyouchi further discloses a method in a computer for providing information about a current state related to a thin client, the current state represented with multiple state attributes, the method comprising:

- a. Obtaining information that is related to the current state (Carroll, col.5, 1.40-42, lens obtaining the user information of distance from sensor);

- b. generating a value for each of multiple of the state attributes of the represented current state based on the obtained information (Carroll, col.5, 1.40-42, lens automatic sizing);
- c. determining a module having an interest in at least one of the generated values (Carroll, col.5, 1.40-44, interactive device determine the sensor conjunction with lens); and
- d. providing to the determined module the generated values in which the determined module can act in accordance with the current state of the thin client (Carroll, col. 5, 1.40, lens automatic sizing corresponds to the act in accordance with the current state).

As per claim 173-, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on physiological data (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 174, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on geographic location and speed (Toyouchi: col. 8, lines 61-col. 9, lines 1-35)..

As per claim 175, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on physical activity to characterize or infer a user's current activity (Toyouchi: col. 8, lines 61-col. 9, lines 1-35)..

As per claim 176, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes to characterize an emotional state (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 177, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 178, Carroll-Toyouchi teaches the method of claim 177, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information pertaining to a demographic classification (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 179, Carroll-Toyouchi teaches the method of claim 177, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information pertaining to a predetermined physiological performance constraint (Toyouchi: col. 8, lines 61-col. 9, lines 1-35)..

As per claim 180, Carroll-Toyouchi teaches the method of claim 179, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on user background information pertaining to visual acuity (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 181, Carroll-Toyouchi teaches the method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on ambient environmental information (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 182, Carroll-Toyouchi teaches the method of claim 181, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on air temperature (Toyouchi: Figure 44, col. 8, lines 61-col. 9, lines 1-35)..

As per claim 183, Carroll-Toyouchi teaches the method of claim 181, further comprising abstracting a user condition derived from the sent values of the state attributes based in part on motion sensing (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

As per claim 184, Carroll-Toyouchi teaches method of claim 66, further comprising abstracting a user condition derived from the sent values of the state attributes based on entities proximal to the user (Toyouchi: col. 8, lines 61-col. 9, lines 1-35).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information As per the status of an application may be obtained from the Patent

Art Unit: 2144

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JMC

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144

September 11, 2008